

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202103311	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/01/2021 11:00 PM, Saturday, 05/01/2021 11:40 PM	Location of Incident: § 87(2)(b) 120th Precinct stationhouse	Precinct: 120	18 Mo. SOL 11/1/2022	EO SOL 11/1/2022	
Date/Time CV Reported Thu, 05/20/2021 11:55 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/02/2021 10:37 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Kevin Levenstein	00000	948070	120 PCT
2. POM Joseph Russo	20327	965489	120 PCT
3. Officers			120 PCT
4. POF Jaimee Pietrunti	14103	968071	120 PCT
5. PO Thomas Spinard	00069	960006	120 PCT
6. PO Joseph Maresca	26252	968602	120 PCT
7. PO Robert Leibowitz	19690	968568	120 PCT
8. PO Chungkong Ip	24632	941044	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Michael Lassen	00547	951899	120 PCT
2. Kyle Erickson		957567	120 PCT
3. PO William Bennett	09915	961641	120 PCT
4. PO Adam McNab	08987	959810	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Jaimee Pietrunti	Abuse: Police Officer Jaimee Pietrunti entered § 87(2)(b) in Staten Island.	§ 87(2)(b)
B.POM Joseph Russo	Abuse: At § 87(2)(b) in Staten Island, Police Officer Joseph Russo threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
C.PO Thomas Spinard	Abuse: At § 87(2)(b) in Staten Island, Police Officer Thomas Spinard drew his gun.	§ 87(2)(b)
D.POF Jaimee Pietrunti	Force: At § 87(2)(b) in Staten Island, Police Officer Jaimee Pietrunti used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Joseph Russo	Force: At § 87(2)(b) in Staten Island, Police Officer Joseph Russo used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F.PO Joseph Maresca	Force: At § 87(2)(b) in Staten Island, Police Officer Joseph Maresca used physical force against § 87(2)(b)	
G.LT Kevin Levenstein	Discourtesy: At the 120th Precinct stationhouse, Lieutenant Kevin Levenstein spoke discourteously to § 87(2)(b)	
H.LT Kevin Levenstein	Abuse: At the 120th Precinct stationhouse, Lieutenant Kevin Levenstein did not obtain medical treatment for § 87(2)(b)	
I.PO Joseph Maresca	Force: At the 120th Precinct stationhouse, Police Officer Joseph Maresca used physical force against § 87(2)(b)	
J.PO Robert Leibowitz	Force: At the 120th Precinct stationhouse, Police Officer Robert Leibowitz used physical force against § 87(2)(b)	
K. Officers	Discourtesy: At the 120th Precinct stationhouse, officers spoke discourteously to § 87(2)(b)	
L. Officers	Off. Language: At the 120th Precinct stationhouse, officers made remarks to § 87(2)(b) based upon race.	
M. Officers	Discourtesy: At the 120th Precinct stationhouse, officers spoke discourteously to § 87(2)(b)	
N.PO Chungkong Ip	Abuse: At the 120th Precinct stationhouse, Police Officer Chungkong Ip threatened § 87(2)(b) with the use of force.	
O.PO Chungkong Ip	Discourtesy: At the 120th Precinct stationhouse, Police Officer Chungkong Ip spoke discourteously to § 87(2)(b)	

### Case Summary

On May 20<sup>th</sup>, 2021, § 87(2)(b) filed the following complaint with IAB via phone. The CCRB received this complaint on June 2<sup>nd</sup>, 2021.

On May 1<sup>st</sup>, 2021, at approximately 11:00pm, § 87(2)(b) went to the home of his ex-girlfriend, § 87(2)(b) located at § 87(2)(b) in Staten Island. § 87(2)(b) had an active order of protection against § 87(2)(b) (BR 01), which barred him from being around § 87(2)(b) or going to her home. § 87(2)(b) entered the house by removing an air conditioner from the window and climbing through. § 87(2)(b) called 911 and Police Officer Jaimee Pietrunti and Police Officer Joseph Russo, both of the 120<sup>th</sup> Precinct, responded to the location. § 87(2)(b) fled the home and went to her nextdoor neighbor's house. § 87(2)(b) remained inside § 87(2)(b) with the front door locked. PO Russo and PO Pietrunti instructed § 87(2)(b) to exit the home, and he refused. Police Officers Joseph Maresca, Robert Leibowitz, Thomas Spinard, William Bennet, Adam McNab, and Sergeant Michael Lassen, all of the 120<sup>th</sup> Precinct, arrived at the location and provided back up. After approximately 15 minutes of officers instructing § 87(2)(b) to exit § 87(2)(b) § 87(2)(b) came to the front door and opened the door slightly. PO Pietrunti allegedly pushed the door open and entered § 87(2)(b) (**Allegation A: Abuse of Authority**, § 87(2)(g)). Upon § 87(2)(b) exiting the home, PO Russo drew his taser and PO Spinard drew his gun (**Allegation B-C: Abuse of Authority**, § 87(2)(g)). Upon exiting § 87(2)(b) PO Pietrunti and PO Russo forcibly took § 87(2)(b) to the ground to handcuff him (**Allegation D, E: Force**, § 87(2)(g)). After being handcuffed, PO Maresca grabbed and pulled him into the police vehicle (**Allegation F: Force, unfounded**).

Upon arrival at the 120<sup>th</sup> Precinct stationhouse, § 87(2)(b) began complaining of injury to his wrists due to the handcuffs and requested medical attention. Lieutenant Kevin Levenstein, of the 120<sup>th</sup> Precinct, was assigned to the desk at this time and allegedly told § 87(2)(b) to “shut the fuck up,” before officers, “maybe,” get § 87(2)(b) medical attention (**Allegation G: Discourtesy**, § 87(2)(g)). **Allegation H: Abuse of Authority**, § 87(2)(g)). While at the 120<sup>th</sup> Precinct stationhouse, multiple officers allegedly told § 87(2)(b) that he was “an asshole,” (**Allegation K: Discourtesy**, § 87(2)(g)) and “the only white boy in the crew,” (**Allegation L: Offensive Language, Allegation M: Discourtesy**, § 87(2)(g)). After being logged at the stationhouse desk, PO Maresca and PO Leibowitz escorted § 87(2)(b) to the 2<sup>nd</sup> floor to be fingerprinted. § 87(2)(b) refused to be fingerprinted, at which point a physical altercation occurred between § 87(2)(b) PO Maresca, and PO Leibowitz, during which PO Maresca and PO Leibowitz pushed and pulled § 87(2)(b) (**Allegation I, J: Force**, § 87(2)(g)). PO Maresca and PO Leibowitz brought § 87(2)(b) back to the cell area downstairs where he was lodged. Police Officer Chungkong Ip, of the 120<sup>th</sup> Precinct, was the cell attendant and PO Ip allegedly told § 87(2)(b) that he would, “break § 87(2)(b) s] face,” and “kick § 87(2)(b) s] ass,” (**Allegation N: Abuse of Authority, Allegation O: Discourtesy**, § 87(2)(g)). After again requesting medical attention in the cells, § 87(2)(b) was removed to § 87(2)(b) Hospital before returning to the 120<sup>th</sup> Precinct stationhouse the following morning to complete his arrest processing.

§ 87(2)(a) 160.50

BWC footage for this case was received from PO Russo, PO Pietrunti, PO Maresca, PO Leibowitz, PO Spinard, PO Bennett, PO McNab, and Sergeant Lassen, the relevant aspects of which are addressed in further detail below. There is no stationhouse footage in this case as it expired prior to receipt due to the 30-day retention window.

## **Findings and Recommendations**

### **Allegation (A) Abuse of Authority: Police Officer Jaimee Pietrunti entered § 87(2)(b) in Staten Island.**

§ 87(2)(b) testified (BR 02) that he went to the home of his former girlfriend, § 87(2)(b) located at § 87(2)(b) on Staten Island. § 87(2)(b) has an order of protection against § 87(2)(b) has been arrested at § 87(2)(b) twice before, and during one occasion he was holding a knife. On the date of the incident, § 87(2)(b) entered § 87(2)(b)'s apartment by pulling an air conditioner out of the back window and climbing through. Almost immediately upon entering § 87(2)(b) § 87(2)(b) observed police cars outside the home. Multiple officers surrounded the house and spoke to § 87(2)(b) through the window, requesting he come outside. § 87(2)(b) at first refused to come out, but after changing clothes he went to the front door of the apartment and unlocked it, with the intention of coming outside. As soon as § 87(2)(b) opened the apartment front door, PO Pietrunti pushed through the front door of § 87(2)(b) and entered the home.

§ 87(2)(b) remained unavailable to the investigation (see IAs for contact attempts).

PO Russo's BWC (BR 03) captures the entirety of the incident occurring at § 87(2)(b). Upon their arrival at the location, PO Russo and PO Pietrunti walk towards the front door of § 87(2)(b) at 00:24 on the player timestamp. The building has a small staircase leading up to a vestibule area, which is shared between the residents of § 87(2)(b) § 87(2)(b). At 1:40 on the player timestamp, PO Russo is captured requesting that § 87(2)(b) exit the home and § 87(2)(b) is heard inside yelling and refusing to leave. § 87(2)(b) and her neighbor are captured inside the vestibule, eventually returning inside § 87(2)(b) and closing the front apartment door. More officers gather outside the door over the course of the next thirteen minutes. At 14:50 on the player timestamp, § 87(2)(b) opens the front door of § 87(2)(b) and walks out. PO Russo and PO Spinard are standing outside the shared vestibule area on either side of the door. § 87(2)(b) walks through the vestibule area and outside onto the stoops, whereupon he puts his hands behind his back. At no point are any officers captured entering § 87(2)(b).

As the entirety of this incident was captured on BWC, PO Pietrunti was not interviewed for this investigation.

§ 87(2)(g)

### **Allegation (B) Abuse of Authority: At § 87(2)(b) in Staten Island, Police Officer Joseph Russo threatened § 87(2)(b) with the use of force.**

### **Allegation (C) Abuse of Authority: At § 87(2)(b) in Staten Island, Police Officer Thomas Spinard pointed his gun at § 87(2)(b)**

As previously noted, § 87(2)(b) testified that he was in violation of § 87(2)(b)'s order of protection against him, that he refused to exit § 87(2)(b) at the instruction of several officers, and that he was previously arrested at § 87(2)(b) while in possession of a knife.

At 1:27 on the player timestamp of PO Russo's BWC, PO Russo is captured asking § 87(2)(b) "Does § 87(2)(b) have any weapons?" § 87(2)(b) responds, "I don't know, he usually comes with a knife." At 2:47 on PO Russo's BWC, he is captured stating to PO Spinard that § 87(2)(b) is a "big perp." At 10:30 on the player timestamp of PO Russo's BWC, PO Spinard is captured stating that § 87(2)(b) is a "known perp," and that officers have been to the location multiple times. At 12:15 on the player timestamp, PO Russo is captured drawing his taser. At 14:50, § 87(2)(b) can be heard unlocking the front door to § 87(2)(b). At 14:56 he walks out of the front door of the apartment and his hands are not clearly visible on screen. PO Russo and PO Spinard both instruct § 87(2)(b) to display his hands and he does so, placing them

out by his waist. At 14:56 on the player timestamp, PO Spinard is captured drawing his firearm as § 87(2)(b) exits the home, and at 14:57 he places it back in the holster.

As the entirety of this incident was captured on BWC, PO Spinard was not interviewed.

PO Russo testified that upon arriving on scene, § 87(2)(b) showed him the order of protection which § 87(2)(b) violated. Upon seeing the order of protection, PO Russo recognized § 87(2)(b)'s name from prior conversations with other officers regarding encounters with him in the 120<sup>th</sup> Precinct. Additionally, PO Russo had seen wanted posters for § 87(2)(b) at the 120<sup>th</sup> Precinct stationhouse, in which § 87(2)(b) was wanted for violent crimes. § 87(2)(b) informed PO Russo that § 87(2)(b) was aggressive and loud inside the house, and that she feared the incident could escalate to violence. While PO Russo had no reason to believe that § 87(2)(b) was armed inside § 87(2)(b) PO Russo drew his taser because anytime someone is barricaded inside a home there is potential for them to be armed.

NYPD Patrol Guide Procedure 221-08 (BR 16) states that members of service may use a conducted electrical weapon (CEW) to prevent individuals from physically injuring themselves or other persons actually present. It is prohibited to use a CEW in situations that do not require the use of physical force.

NYPD Patrol Guide Procedure 221-01 (BR 05) states that members of service may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. In determining whether the use of force is reasonable, members of service should consider the subject's violent history, if known. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable.

§ 87(2)(g), § 87(2)(b)

§ 87(2)(g)

**Allegation (D) Force: At § 87(2)(b) in Staten Island, Police Officer Jaimee Pietrunti used physical force against § 87(2)(b)**

**Allegation (E) Force: At § 87(2)(b) in Staten Island, Police Officer Joseph Russo used physical force against § 87(2)(b)**

**Allegation (F) Force: At § 87(2)(b) in Staten Island, Police Officer Joseph Maresca used physical force against § 87(2)(b)**

§ 87(2)(b) testified that after approximately twenty minutes standing inside § 87(2)(b) while officers outside requested he exit, he changed clothes and opened the front door to the home. Immediately upon opening the door, PO Russo and PO Pietrunti took him to the ground using a forcible takedown and placed him in handcuffs. After officers placed him in handcuffs, PO Leibowitz and PO Maresca escorted § 87(2)(b) to their police vehicle parked in front of the home. Upon approaching the vehicle, PO Maresca grabbed § 87(2)(b) and forcibly pulled him into the vehicle.

PO Spinard's BWC (BR 06) captures the moment in which § 87(2)(b) exits through the front door of § 87(2)(b). At minute mark 13:03 on the player timestamp, § 87(2)(b) walks through the front door. PO Spinard and PO Russo each shout, "Let me see your hands." § 87(2)(b) walks through the vestibule to the stoop, where PO Russo, PO Spinard, and PO Pietrunti are standing. § 87(2)(b) places his hands behind his back and PO Spinard places handcuffs on him. § 87(2)(b) remains standing through this process. At no point are either PO Russo or PO Pietrunti captured using a forcible takedown on § 87(2)(b).

PO Maresca's BWC (BR 07) captures § 87(2)(b)'s walk to the police vehicle waiting in front of the home. At 14:20 on the player timestamp, § 87(2)(b) is captured willingly entering the police vehicle. At no point is PO Maresca captured forcibly pulling § 87(2)(b) into the rear seat of the police vehicle.

§ 87(2)(g)

**Allegation (G) Discourtesy: At the 120th Precinct stationhouse, Lieutenant Kevin Levenstein spoke discourteously to § 87(2)(b)**

**Allegation (H) Abuse of Authority: At the 120th Precinct stationhouse, Lieutenant Kevin Levenstein did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) testified that the moment he walked into the lobby at the 120<sup>th</sup> Precinct stationhouse, he began asking for an ambulance and immediate medical attention from both his escorting officers as well as the front desk officer. § 87(2)(b) stated loudly that his wrists were hurting from the handcuffs, and he was concerned his wrists were injured. At this point in time, Lieutenant Levenstein allegedly told § 87(2)(b) to, "shut the fuck up," before officers "maybe get [him] medical treatment."

§ 87(2)(b) described the officer who made these comments to him as a 45-year-old white male with a balding head and black hair, a short build, and wearing a white shirted NYPD uniform. § 87(2)(b) believed the officer's name was "Lubetski." The Tour 3 command log from the 120<sup>th</sup> Precinct stationhouse on May 1<sup>st</sup>, 2021 (BR 10), revealed Lieutenant Levenstein was present for duty at the time of this incident. A request for Lieutenant Levenstein's NYPD Officer Photograph revealed that he was a § 87(2)(b)-old-white male, with short cropped black hair, standing 5'8" tall. Given that he was a lieutenant at the time of this incident, Lieutenant Levenstein would have been

wearing a white shirt per NYPD Patrol Guide Procedure 204-03 (BR 08). As such Lieutenant Levenstein was plead as the subject of these allegations.

Lieutenant Levenstein had no recollection of this incident. Lieutenant Levenstein had no memory of § 87(2)(b) telling him he needed medical treatment for injured wrists. Lieutenant Levenstein did not tell § 87(2)(b) he had to “shut the fuck up,” before officers, “maybe get [him] medical treatment.”

At 21:04 on the player timestamp of PO Leibowitz's BWC footage, § 87(2)(b) is walked into the 120<sup>th</sup> Precinct stationhouse. Lieutenant Levenstein is not captured at the desk. § 87(2)(b) is speaking with PO Maresca and PO Leibowitz but is not captured requesting medical attention or mentioning that his wrists are injured. At 23:40 on the player timestamp of PO Maresca's BWC, Lieutenant Levenstein is captured standing behind the stationhouse front desk. At 28:02 on the player timestamp, PO Maresca and PO Leibowitz lead § 87(2)(b) out of the stationhouse lobby. At no point is Lieutenant Levenstein or any other officer captured telling § 87(2)(b) to, "shut the fuck up," before officers "maybe get [him] medical treatment."

The Tour 3 command log from the 120<sup>th</sup> Precinct on May 1<sup>st</sup>, 2021 (BR 10) arrest stamp for § 87(2)(b) at 11:08 p.m. contains a section in regard; the section titled, “Medical attention requested,” is marked “No.”

§ 87(2)(b) stated that from the moment he walked into the 120<sup>th</sup> Precinct stationhouse he began requesting medical attention for his injured wrists. § 87(2)(b) further alleged that in the stationhouse lobby, Lieutenant Levenstein told him to, “shut the fuck up,” before officers “maybe get [him] medical treatment.” § 87(2)(g)

**Allegation (K) Discourtesy: At the 120<sup>th</sup> Precinct stationhouse, officers spoke discourteously to § 87(2)(b)**

**Allegation (L) Offensive Language: At the 120<sup>th</sup> Precinct stationhouse, officers made remarks to § 87(2)(b) based upon race.**

**Allegation (M) Discourtesy: At the 120th Precinct stationhouse, officers spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that at some point while in police custody at the 120<sup>th</sup> Precinct Stationhouse, multiple officers that he was unable to describe told § 87(2)(b) that he was an “asshole,” and “the only white boy in the crew.”

Lieutenant Levenstein and PO Russo testified they never heard any officers call § 87(2)(b) an “asshole,” or “the only white boy in the crew,” nor did they make these remarks themselves.

Neither PO Leibowitz nor PO Maresca's BWC footage, which captures § 87(2)(b) being transported and lodged at the 120<sup>th</sup> Precinct stationhouse, capture any officer making these remarks.

**Allegation (I) Force: At the 120<sup>th</sup> Precinct stationhouse, Police Officer Joseph Maresca used physical force against § 87(2)(b)**

**Allegation (J) Force: At the 120<sup>th</sup> Precinct stationhouse, Police Officer Robert Leibowitz used physical force against § 87(2)(b)**

§ 87(2)(b) testified that after being lodged at the front desk at the 120<sup>th</sup> Precinct stationhouse, PO Maresca brought § 87(2)(b) up a flight of stairs to the fingerprinting room. § 87(2)(b) did not wish to be fingerprinted and refused to do so. After repeatedly refusing to be fingerprinted, PO Maresca escorted § 87(2)(b) out of the fingerprinting room. While leaving the room, a scuffle ensued between § 87(2)(b) and PO Maresca and the officers pulled and pushed him.

At 27:50 on the player timestamp of PO Leibowitz's BWC, PO Leibowitz and PO Maresca lead § 87(2)(b) up a flight of stairs at the 120<sup>th</sup> Precinct stationhouse. PO Leibowitz, PO Maresca, and § 87(2)(b) wait to be buzzed into the fingerprinting room on the second floor, during which time § 87(2)(b) begins a verbal argument with PO Maresca. At 28:52, PO Maresca and PO Leibowitz are buzzed in and walk § 87(2)(b) through the door to the fingerprinting room, beyond which BWC recording is not allowed. When PO Leibowitz's BWC ends at 28:54, PO Leibowitz, PO Maresca, and § 87(2)(b) are standing in the threshold of the door to the fingerprinting room and § 87(2)(b) is shouting, "Bullshit, bullshit," at PO Maresca. The footage does not capture any scuffle, or PO Maresca or PO Leibowitz pushing or pulling § 87(2)(b).

A second activation from PO Maresca's BWC (BR 09) captures the portion of the incident after PO Leibowitz's BWC footage ends. At 0:00, PO Maresca and PO Leibowitz are captured walking § 87(2)(b) towards the fingerprinting room inside the 120<sup>th</sup> Precinct Stationhouse. After speaking briefly with an officer holding the door open, PO Maresca and PO Leibowitz turn back around and leave the room at 0:12 on the player timestamp. The audio of this footage is not active until 0:23, however the BWC's Axon timestamps reveal that this is when § 87(2)(b) is shouting, "Bullshit, bullshit" at PO Maresca, as captured on PO Leibowitz's BWC. PO Maresca and PO Leibowitz walk § 87(2)(b) to a hallway where they pause on the landing of a staircase. At 0:30, PO Leibowitz states, "Chris, get this done and it will be a lot quicker for you to get out." § 87(2)(b) makes a statement but because of the echoing in the stairwell, the audio is unintelligible. PO Leibowitz states, "Alright, then go downstairs," and points his hands towards the stairwell. At 0:55, § 87(2)(b) is walked back down the stairs to the stationhouse lobby. When the footage ends at 1:22 on the player timestamp, PO Maresca, PO Leibowitz, and § 87(2)(b) enter the cell holding area on the ground floor of the 120<sup>th</sup> Precinct stationhouse. The footage does not capture any scuffle, and at no point are PO Maresca or PO Leibowitz captured pushing or pulling § 87(2)(b) out of the fingerprinting room.

As the entirety of this portion of the incident was captured on BWC, PO Maresca and PO Leibowitz were not interviewed for this investigation.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (N) Abuse of Authority: At the 120<sup>th</sup> Precinct stationhouse, PO Chungkong Ip threatened § 87(2)(b) with the use of force.**

**Allegation (O) Discourtesy: At the 120<sup>th</sup> Precinct stationhouse, PO Chungkong Ip spoke discourteously to § 87(2)(b)**

§ 87(2)(b) testified that at some point while he was lodged in the cells at the 120<sup>th</sup> Precinct stationhouse, an officer came into the cell area. § 87(2)(b) could not specify at what approximate time this occurred. § 87(2)(b) told this officer that he was going to spit on him. The





- Mediation, Civil, and Criminal Histories**
- This complaint was not suitable for mediation.
  - As of August 19<sup>th</sup>, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR 13).
  - § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c) §  
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Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_